

Article 5.

Metropolitan Sewerage Districts.

§ 162A-64. Short title.

This Article shall be known and may be cited as the "North Carolina Metropolitan Sewerage Districts Act." (1961, c. 795, s. 1; 1973, c. 822, s. 4.)

§ 162A-65. Definitions; description of boundaries.

(a) Definitions. – As used in this Article the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

- (1) The term "board of commissioners" shall mean the board of commissioners of the county in which a metropolitan sewerage district shall be created under the provisions of this Article.
- (2) The word "cost" as applied to a sewerage system shall mean the cost of acquiring, constructing, reconstructing, improving, extending, enlarging, repairing and equipping any such system, and shall include the cost of all labor and materials, machinery and equipment, lands, property, rights, easements and franchises, plans and specifications, surveys and estimates of cost and of revenues, and engineering and legal services, financing charges, interest prior to and during construction and, if deemed advisable by the district board, for one year after the estimated date of completion of construction, and all other expenses necessary or incident to determining the feasibility or practicability of any such undertaking, administrative expense and such other expenses, including reasonable provision for working capital and a reserve for interest, as may be necessary or incident to the financing herein authorized, and may also include any obligation or expense incurred by the district or by any political subdivision prior to the issuance of bonds under the provisions of this Article in connection with any such undertaking or any of the foregoing items of cost.
- (3) The word "district" shall mean a metropolitan sewerage district created under the provisions of this Article.
- (4) The term "district board" shall mean a sewerage district board established under the provisions of this Article as the governing body of a district or, if such sewerage district board shall be abolished, any board, body, or commission succeeding to the principal functions thereof or upon which the powers given by this Article to the sewerage district board shall be given by law.
- (5) The term "general obligation bonds" shall mean bonds of a district for the payment of which and the interest thereon all the taxable property within such district is subject to the levy of an ad valorem tax without limitation of rate or amount.
- (6) The term "governing body" shall mean the board, commission, council or other body, by whatever name it may be known, of a political subdivision in which the general legislative powers thereof are vested, including, but without limitation, as to any political subdivision other than the county, the board of commissioners for the county when the general legislative powers of such political subdivision are exercised by such board.

- (7) The word "person" shall mean any and all persons including individuals, firms, partnerships, associations, public or private institutions, municipalities, or political subdivisions, governmental agencies, or private or public corporations organized and existing under the laws of this State or any other state or county.
- (8) The term "political subdivision" shall mean any county, city, town, incorporated village, sanitary district, water district, sewer district, special purpose district or other political subdivision or public corporation of this State now or hereafter created or established.
- (9) The term "revenue bonds" shall mean bonds the principal of and the interest on which are payable solely from revenues of a sewerage system or systems.
- (9a) The word "revenues" shall mean all moneys received by a district from, in connection with or as a result of its ownership or operation of a sewerage system, including, without limitation and if deemed advisable by the district board, moneys received from the United States of America, or any agency thereof, pursuant to an agreement with the district board pertaining to the sewerage system.
- (10) The word "sewage" shall mean the water-carried wastes created in and carried or to be carried away from residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other private or public buildings, together with such surface or groundwater or household and industrial wastes as may be present.
- (11) The term "sewage disposal system" shall mean any plant, system, facility or property, either within or without the limits of the district, used or useful or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, or any integral part thereof, including but not limited to septic tank systems or other on-site collection or disposal facilities or systems, treatment plants, facilities for the generation and transmission of electric power and energy, pumping stations, intercepting sewers, trunk sewers, pressure lines, mains and all necessary appurtenances and equipment, and all property, rights, easements and franchises relating thereto and deemed necessary or convenient by the district board for the operation thereof.
- (12) The term "sewerage system" shall embrace both sewers and sewage disposal systems and any part or parts thereof, either within or without the limits of the district, all property, rights, easements and franchises relating thereto, and any and all buildings and other structures necessary or useful in connection with the ownership, operation or maintenance thereof.
- (13) The word "sewers" shall mean any mains, pipes and laterals, including pumping stations, either within or without the limits of the district, for the reception of sewage and carrying such sewage to an outfall or some part of a sewage disposal system.

(b) Description of Boundaries. – Whenever this Article requires that the boundaries of an area be described, it shall be sufficient if the boundaries are described in a manner which conveys an understanding of the location of the land and may be

- (1) By reference to a map,
- (2) By metes and bounds,

- (3) By general description referring to natural boundaries, boundaries of political subdivisions, or boundaries of particular tracts or parcels of land, or
- (4) Any combination of the foregoing. (1961, c. 795, s. 2; 1969, c. 993, s. 1; 1973, c. 822, s. 4; 1979, c. 619, s. 10; 1983, c. 333, s. 1.)

§ 162A-66. Procedure for creation; resolutions and petitions for creation; notice to and action by the Environmental Management Commission; notice and public hearing; resolutions creating districts; actions to set aside proceedings.

Any two or more political subdivisions in one or more counties, or any political subdivision or subdivisions and any unincorporated area or areas located within one or more counties, which political subdivisions or areas need not be contiguous, may petition for the creation of a metropolitan sewerage district under the provisions of this Article by filing with the board or boards of commissioners of the county or counties within which the proposed district will lie:

- (1) A resolution of the governing body of each such political subdivision stating the necessity for the creation of a metropolitan sewerage district under the provisions of this Article in order to preserve and promote the public health and welfare within the area of the proposed district, and requesting the creation of a metropolitan sewerage district having the boundaries set forth in said resolution, and
- (2) If any unincorporated area is to be included in such district, a petition, signed by not less than fifty-one per centum (51%) of the qualified voters resident within such area, defining the boundaries of such area, stating the necessity for the creation of a metropolitan sewerage district under the provisions of this Article in order to preserve and promote the public health and welfare within the proposed district, and requesting the creation of a metropolitan sewerage district having the boundaries set forth in such petition for such district.

Upon the receipt of such resolutions and petitions requesting the creation of a metropolitan sewerage district, the board or boards of commissioners, through the chairman thereof, shall notify the North Carolina Environmental Management Commission of the receipt of such resolutions and petitions, and shall request that a representative of the Environmental Management Commission hold a joint public hearing with the board or boards of commissioners concerning the creation of the proposed metropolitan sewerage district. The chairman of the Environmental Management Commission and the chairman or chairmen of the board or boards of commissioners shall name a time and place within the proposed district at which the public hearing shall be held; provided, however, that where a proposed district lies within more than one county, the public hearing shall be held in the county within which the greater portion of the proposed district lies. The chairman or chairmen of the board or boards of commissioners shall give prior notice of such hearing by posting a notice at least 30 days prior to the hearing at the courthouse of the county or counties within which the district will lie and also by publication at least once a week for four successive weeks in a newspaper having general circulation in the proposed district, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the creation of such metropolitan sewerage district cannot be concluded at such hearing, such hearing may be continued to a time and place within the proposed district determined by the board or boards of commissioners with the concurrence of the representative of the Environmental Management Commission.

If, after such hearing, the Environmental Management Commission and the board or boards of commissioners shall deem it advisable to comply with the request of such resolutions and petitions, and determine that the creation of a metropolitan sewerage district would preserve and promote the public health and welfare in the area or areas described in such resolutions and petitions, the Environmental Management Commission shall adopt a resolution to that effect, defining the boundaries of such district and declaring the territory within such boundaries to be a metropolitan sewerage district under the name and style of "_____ Metropolitan Sewerage District of _____ [County] [Counties]"; provided, that the Environmental Management Commission may make minor deviations in the boundaries from those prescribed in the resolutions and petitions upon determination by the Environmental Management Commission that such deviations are advisable in the interest of the public health, and provided no such district shall include any political subdivision which has not petitioned for inclusion as provided in this Article.

The Environmental Management Commission shall cause copies of the resolution creating the metropolitan sewerage district to be sent to the board or boards of commissioners and to the governing body of each political subdivision included in the district. The board or boards of commissioners shall cause a copy of such resolution of the Environmental Management Commission to be published in a newspaper circulating within the district once in each of two successive weeks, and a notice substantially in the following form shall be published with such resolution:

The foregoing resolution was passed by the North Carolina Environmental Management Commission on the _____ day of _____, _____, and was first published on the _____ day of _____, ____.

Any action or proceeding questioning the validity of said resolution or the creation of the metropolitan sewerage district therein described must be commenced within 30 days after the first publication of said resolution.

Clerk, Board of Commissioners for
_____ County.

Any action or proceeding in any court to set aside a resolution creating a metropolitan sewerage district, or to obtain any other relief upon the ground that such resolution or any proceeding or action taken with respect to the creation of such district is invalid, must be commenced within 30 days after the first publication of the resolution and said notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolution or the creation of the metropolitan sewerage district therein described shall be asserted, nor shall the validity of the resolution or of the creation of such metropolitan sewerage district be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. (1961, c. 795, s. 3; 1973, c. 512, s. 1; c. 822, s. 4; c. 1262, s. 23; 1977, c. 764, s. 1; 1999-456, s. 59.)

§ 162A-66.5. Approval of all political subdivisions required.

Prior to the adoption of a resolution under G.S. 162A-66 on or after April 1, 2013, the Environmental Management Commission shall receive a resolution supporting the establishment of a district board from (i) the board of commissioners of the county or counties lying wholly or partly within the boundaries of the proposed district and (ii) from the governing board of each political subdivision in the county or counties lying wholly or

partly within the boundaries of the proposed district. If the Environmental Management Commission does not receive a resolution from each of those political subdivisions, the Environmental Management Commission may not adopt the resolution to create the district board. (2013-50, s. 5.5.)

§ 162A-67. District board; composition, appointment, terms, oaths and removal of members; organization; meetings; quorum; compensation and expenses of members.

(a) Appointment of Board for District Lying Wholly or Partly outside City or Town Limits. – The district board of a metropolitan sewerage district lying in whole or in part outside the corporate limits of a city or town shall be appointed immediately after the creation of the district in the following manner:

- (1) If the district lies entirely within one county with a population of 25,000 or more, the board of commissioners of that county shall appoint to the district board three members who are qualified voters residing within the district. The initial members so appointed shall have terms expiring one year, two years and three years, respectively, from the date of adoption of the resolution of the Environmental Management Commission creating the district, and the board of commissioners shall designate the length of the term of each initial member. Successor members shall be appointed for a term of three years.
- (1a) If the district lies entirely within one county with a population of less than 25,000, the board of commissioners of that county shall appoint to the district board five members who are qualified voters residing within the district. Of the initial members so appointed, one shall have a term expiring at the end of one year, two shall have terms expiring at the end of two years, and two shall have terms expiring at the end of three years from the date of adoption of the resolution of the Environmental Management Commission creating the district. In making initial appointments, the board of commissioners shall specify whether a member is to serve a term of one, two, or three years. Successor members shall be appointed for a term of three years.
- (2) If the district lies in two counties, the board of commissioners of the county in which the largest portion of the district lies shall appoint to the district board two qualified voters residing in the county and district to serve for terms of one year and three years, respectively. The board of commissioners of the county in which the lesser portion of the district lies shall appoint to the district board one qualified voter residing in the county and district to serve for a term of two years. All successor members shall be appointed for a term of three years.
- (3) If the district lies in three or more counties, the board of commissioners of each such county shall appoint one member of the district board. Each

member so appointed shall be a qualified voter residing in the district and of the county from which he is appointed and shall serve for a term of three years. Successor members shall be appointed for a term of three years.

- (4) The governing body of each political subdivision, other than counties, lying in whole or in part within the district, shall appoint one member of the district board. Except as provided in G.S. 162A-68, no appointment of a member of the district board shall be made by or in behalf of any political subdivision of which the board or boards of commissioners shall be the governing body. If any city or town within the district shall have a population, as determined from the latest decennial census, more than one-half the combined population of all other political subdivisions (other than counties) and unincorporated areas within the district, the governing body of any such city or town shall appoint three members.

(b) Appointment of Board for District Lying Wholly within City or Town Limits. – Any district lying entirely within the corporate limits of two or more cities or towns shall be governed by a district board consisting solely of members appointed by the governing bodies of such cities or towns and, in addition, one member elected by the appointed members of the district board. The governing body of each constituent city or town of the district shall appoint to the district board two qualified voters residing in the district and the city or town. The members so appointed shall elect, by majority vote, one additional member who shall be a qualified voter residing in the district and one of the constituent cities or towns.

One of the two members initially appointed by the governing body of each constituent city or town shall serve for a term which shall expire 30 days following the next regular election held for election of the governing body by which the member was appointed; and the other member shall serve for a term which shall expire two years thereafter. Successor members shall serve for a term of four years.

The member elected by the district board and his successors in office shall serve for a term of four years.

(c) Reappointment; Vacancies; Removal; Term. – Members of a district board may be reappointed. If a vacancy shall occur on a district board, the governing body which appointed the member who previously filled the vacancy shall appoint a new member who shall serve for the remainder of the unexpired term. Any member of a district board may be removed for cause by the governing board that appointed him. All members shall serve until their successors have been duly appointed and qualified.

(d) District Board Procedures. – Each member of the district board, before entering upon his duties, shall take and subscribe an oath or affirmation to support the Constitution and laws of the United States and of this State and to discharge faithfully the duties of his office; and a record of each such oath shall be filed with the clerk or clerks of the board or boards of commissioners.

The district board shall elect one of its members as chairman and another as vice-chairman and shall appoint a secretary and a treasurer who may, but need not, be

members of the district board. The officers [offices] of secretary and treasurer may be combined. The district board may also appoint an assistant secretary and an assistant treasurer or, if the office is combined, an assistant secretary-treasurer who may, but need not, be members of the district board. The terms of office of the chairman, vice-chairman, secretary, treasurer, assistant secretary, and assistant treasurer shall be as provided in the bylaws of the district board.

The district board shall meet regularly at such places and dates as are determined by the board. Special meetings may be called by the chairman on his own initiative and shall be called by him upon request of two or more members of the board. All members shall be notified in writing at least 24 hours in advance of such meeting. A majority of the members of the district board shall constitute a quorum, and the affirmative vote of a majority of the members of the district board present at any meeting thereof shall be necessary for any action taken by the district board. No vacancy in the membership of the district board shall impair the right of a quorum to exercise all the rights and perform all the duties of the district board. Each member, including the chairman, shall be entitled to vote on any question. The members of the district board may receive compensation in an amount to be determined by the board, but not to exceed that compensation paid to members of Occupational Licensing Boards as provided in G.S. 93B-5(a) for each meeting of the board attended and for attendance at each regularly scheduled committee meeting of the board. The members of the district board may also be reimbursed the amount of actual expenses incurred by them in the performance of their duties. (1961, c. 795, s. 4; 1963, c. 471; 1973, c. 512, s. 2; c. 822, s. 4; c. 1262, s. 23; 1979, c. 471; 1983, c. 333, s. 2; 1991, c. 351, s. 1; 1995, c. 511, s. 2.1; 2012-203, s. 1.)

§ 162A-67.1: Reserved for future codification purposes.

§ 162A-67.2: Reserved for future codification purposes.

§ 162A-67.3: Reserved for future codification purposes.

§ 162A-67.4: Reserved for future codification purposes.

§ 162A-67.5. Determination of population and representation.

(a) For purposes of determining district board representation of political subdivisions for any appointment under this Article, population shall be determined by reference to the most recent decennial census.

(b) For purposes of determining population for district board representation, only that portion of the population residing within the district boundary itself shall be included for each political subdivision and each unincorporated area having district board representation at the time such determination is made.

(c) In determining district board representation, no appointment shall be made by or in behalf of a political subdivision which does not own or operate a public system for the collection of wastewater at the time of such appointment. (2012-203, s. 2.)

§ 162A-68. Procedure for inclusion of additional political subdivision or unincorporated area; notice and hearing; elections; actions to set aside proceedings.

(a) If, at any time subsequent to the creation of a district, there shall be filed with the district board (i) a resolution of the governing body of a political subdivision requesting inclusion in the district all or part of such political subdivision or (ii) a petition signed by not less than fifty-one per centum (51%) of the qualified voters resident within an unincorporated area requesting inclusion in the district such unincorporated area, and if the district board shall favor the inclusion in the district of such new territory, the district board shall notify the board or boards of commissioners of the county or counties within which the district lies and shall file with the board or boards of commissioners and with the Environmental Management Commission a report setting forth the plans of the district for extending sewerage service to the new territory. The report shall include:

- (1) A map or maps of the district and adjacent territory showing the present and proposed boundaries of the district; the existing major sewer interceptors and outfalls; and the proposed extension of such interceptors and outfalls.
- (2) A statement setting forth the plans of the district for extending sewerage services to the territory proposed to be included, which plans shall:
 - a. Provide for extending sewerage service to the territory included on substantially the same basis and in the same manner as such services are provided within the rest of the district prior to inclusion of the new territory.
 - b. Set forth a proposed time schedule for extending sewerage service to the territory proposed to be included.
 - c. Set forth the estimated cost of extending sewerage service to the territory proposed to be included; the method by which the district proposes to finance the extension; the outstanding existing indebtedness of the district, if any; and the valuation of assessable property within the district and within the territory proposed to be included.
 - d. Contain a declaration of intent of the district board to conform with the plans set forth in the report in extending sewerage services to the territory proposed to be included; and a certification by the chairman of the district board to the effect that the matters and things set forth in the report are true to his knowledge or belief.

(b) The board or boards of commissioners, through the chairmen thereof, shall thereupon request that a representative of the Environmental Management Commission

hold a joint public meeting with the board or boards of commissioners concerning the inclusion of a political subdivision or an unincorporated area in the district. The chairman of the Environmental Management Commission and the chairman or chairmen of the board or boards of commissioners shall name a time and place within the district at which the public hearing shall be held. The chairman or chairmen of the board or boards of commissioners shall give prior notice of such hearing by posting a notice at the courthouse door of the county or counties at least 30 days prior to the hearing and also by publication at least once a week for four successive weeks in a newspaper having general circulation in the district and in any such political subdivision or unincorporated area, the first publication to be at least 30 days prior to such hearing. In the event all matters pertaining to the inclusion of such political subdivision or unincorporated area cannot be included at such hearing, such hearing may be continued to a time and place within the district determined by the board or boards of commissioners with the concurrence of the representative of the Environmental Management Commission.

(c) If, after such hearing, the Environmental Management Commission and the board or boards of commissioners shall determine that the inclusion of the political subdivision or unincorporated area in the district will preserve and promote the public health and welfare, the Environmental Management Commission shall adopt a resolution to that effect, defining the boundaries of the district, including the political subdivision or unincorporated area which has filed a resolution or petition as provided for in this section, and declaring such political subdivision or unincorporated area to be included in the district.

(d) If, at or prior to such public hearing, there shall be filed with the district board a petition, signed by not less than ten per centum (10%) of the qualified voters residing in the district, requesting an election to be held therein on the question of including the political subdivision or unincorporated area, the district board shall certify a copy of such petition to the board or boards of commissioners, and the board or boards of commissioners shall request the county board or boards of elections to submit such question to the qualified voters within the district in accordance with G.S. 163A-1592 and the other applicable provisions of Subchapter III of Chapter 163A of the General Statutes; provided, that the election shall not be held unless the Environmental Management Commission has adopted a resolution approving the inclusion of the political subdivision or unincorporated area in the district.

Notice of such election, which shall contain a statement of the boundaries of the territory proposed to be included in the district and the boundaries of the district after inclusion, shall be given by publication once a week for three successive weeks in a newspaper or newspapers having general circulation within the district, the first publication to be at least 30 days prior to the election.

(e) Notice of the resolution of the Environmental Management Commission, or in the event that an election pursuant to this section is held, notice of the results of the election, approving the inclusion of the political subdivision or unincorporated area within the district shall be published as provided in G.S. 162A-66.

(f) Any action or proceeding in any court to set aside a resolution of the Environmental Management Commission or an election approving the inclusion of a political subdivision or unincorporated area within a district or to obtain any other relief upon the ground that such resolution or election or any proceeding or action taken with respect to the inclusion of the political subdivision or unincorporated area within the district is invalid, must be commenced within 30 days after the first publication of the notice. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the resolution or the election or the inclusion of the political subdivision or unincorporated area in the district shall be asserted, nor shall the validity of the resolution or the election or the inclusion of the political subdivision or unincorporated area be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period.

(g) Any political subdivision or unincorporated area included within an existing district by resolution of the Environmental Management Commission or by such resolution and election shall be subject to all debts of the district.

(h) The annexation by a city or town within a metropolitan sewerage district of an area lying outside such district shall not be construed as the inclusion within the district of an additional political subdivision or unincorporated area within the meaning of the provisions of this section; but any such areas so annexed shall become a part of the district and shall be subject to all debts thereof.

(i) Immediately following the inclusion of any additional political subdivision within an existing district, members representing such additional political subdivision shall be appointed to the district board in the manner provided in this section:

(1) Any additional unincorporated area that is included within an existing district shall be represented by the members representing the county in which the unincorporated area lies as follows:

- a. If inclusion of the additional unincorporated area extends the district into more than one county, members representing the unincorporated area in the new county shall be appointed immediately following the inclusion of the additional area. Upon the inclusion of the additional area, the board members appointed in accordance with G.S. 162A-67(a)(1) or G.S. 162A-67(a)(1a) shall continue to serve on the district board. The board of commissioners of the county in which the largest portion of the district lies shall appoint qualified voters residing in the county and district as their successors such that the county in which the largest portion of the district lies shall always have three members on the district board. The board of commissioners of the county in which the lesser portion of the district lies shall appoint to the district board two qualified voters residing in the county and district to serve a term of three years and shall appoint qualified voters residing in the county and district as their successors such that the county in which the lesser portion of the district lies shall

always have two members on the district board. For purposes of this subdivision, the county in which the largest portion and lesser portion of the district lies shall be determined with reference to the land area of the district lying within the county as a percentage of land area of the entire district at the time such appointment or reappointment is made.

- b. If the inclusion of the additional unincorporated area has the effect of changing the county in which the largest portion of the district lies, new members representing the county comprising the larger portion of the district shall be appointed in accordance with G.S. 162A-67(a)(2) immediately following the inclusion, and no reappointment shall be made by the county in which the lesser portion of the district lies upon expiration of the first term of a member representing that county following the inclusion.
- (1a) Notwithstanding subdivision (1) of this subsection, when the territory of the district is expanding into new territory, any county without representation on the district board shall be represented by three additional members who are qualified voters residing within the new territory, appointed by the county board of commissioners governing the new territory.
- (2) Except as otherwise provided in this subsection, following the inclusion of any additional political subdivision within an existing district, the political subdivisions added shall appoint members to the district board in accordance with G.S. 162A-67(a)(4) only if the governing body of the political subdivision owns or operates a public system for the collection of wastewater at the time of such appointment.

(j) The terms of office of the members first appointed under subsection (i) of this section to represent such additional political subdivision or area may be varied for a period not to exceed six months from the terms provided for in G.S. 162A-67, so that the appointment of successors to such members may more nearly coincide with the appointment of successors to members of the existing board; and all successor members shall be appointed for the terms provided for in G.S. 162A-67. (1961, c. 795, s. 5; 1973, c. 512, s. 3; c. 822, s. 4; c. 1262, s. 23; 1977, c. 764, s. 2; 1991 (Reg. Sess., 1992), c. 954, s. 1; 2012-203, s. 3; 2013-381, s. 10.30; 2017-26, s. 1; 2017-6, s. 3.)

§ 162A-69. Powers generally; fiscal year.

Each district shall be deemed to be a public body and body politic and corporate exercising public and essential governmental functions to provide for the preservation and promotion of the public health and welfare, and each district is hereby authorized and empowered:

- (1) To adopt bylaws for the regulation of its affairs and the conduct of its business not in conflict with this or other law;

- (2) To adopt an official seal and alter the same at pleasure;
- (3) To maintain an office at such place or places in the district as it may designate;
- (4) To sue and be sued in its own name, plead and be impleaded;
- (5) To acquire, lease as lessor or lessee, construct, reconstruct, improve, extend, enlarge, equip, repair, maintain and operate any sewerage system or part thereof within or without the district; provided, however, that no such sewerage system or part thereof shall be located in any city, town or incorporated village outside the district except with the consent of the governing body thereof, and each such governing body is hereby authorized to grant such consent;
- (6) To issue general obligation bonds and revenue bonds of the district as hereinafter provided to pay the cost of a sewerage system or systems;
- (7) To issue general obligation refunding bonds and revenue refunding bonds of the district as hereinafter provided;
- (8) To fix and revise from time to time and to collect rents, rates, fees and other charges for the use of or for the services and facilities furnished by any sewerage system;
- (8a) To impose and require system development fees only in accordance with Article 8 of this Chapter.
- (9) To cause taxes to be levied and collected upon all taxable property within the district sufficient to meet the obligations of the district, to pay the cost of maintaining, repairing and operating any sewerage system or systems, and to pay all obligations incurred by the district in the performance of its lawful undertakings and functions;
- (10) To acquire in the name of the district, either within or without the corporate limits of the district, by gift, purchase or the exercise of the right of eminent domain, which right shall be exercised in accordance with the provisions of Chapter 40A of the General Statutes of North Carolina, any improved or unimproved lands or rights in land, and to acquire such personal property, as it may deem necessary in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, repair, equipment, maintenance or operation of any sewerage system, and to hold and dispose of all real and personal property under its control;
- (11) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Article, including a trust agreement or trust agreements securing any revenue bonds issued hereunder;
- (11a) To pledge a security interest in accordance with G.S. 160A-20;
- (12) To employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants, attorneys, employees and agents as may, in the judgment of the district board be

deemed necessary, and to fix their compensation; provided, however, that the provisions of G.S. 159-20 shall be complied with to the extent that the same shall be applicable;

- (13) To receive and accept from the United States of America or the State of North Carolina or any agency or instrumentality thereof loans, grants, advances or contributions for or in aid of the planning, acquisition, construction, reconstruction, improvement, extension, enlargement, repair, equipment, maintenance or operation of any sewerage system or systems, to agree to such reasonable conditions or requirements as may be imposed, and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such loans, grants, advances or contributions may be made;
- (13a) To adopt ordinances to regulate and control the discharge of sewage into any sewerage system owned or operated by the district. Prior to the adoption of any ordinance or any amendment to any ordinance the district shall first pass a declaration of intent to adopt such ordinance or amendment. The declaration of intent shall describe the ordinance or amendment which it is proposed that the district adopt. The declaration of intent shall be submitted to each governing body for review and comment. The district shall take into consideration any comment and suggestions with respect to the proposed ordinance or amendment offered by any governing body and may modify such proposed ordinance or amendment to reflect comment and suggestions offered by any governing body. Thereafter, the district shall be authorized to adopt such ordinance or any amendment to it at any time after 60 days following the submission of the declaration of intent to each governing body;
- (13b) To require the owners of improved property located within the district so as to be served by a sewer collection line owned or leased and operated by the district to connect their premises with the sewer line, and fix charges for these connections; and
- (13c) To exercise any power of a Metropolitan Water District under Article 4 of this Chapter not set forth in this section; [and]
- (14) To do all acts and things necessary or convenient to carry out the powers granted by this Article.

Each district shall keep its accounts on the basis of a fiscal year commencing on the first day of July and ending on the thirtieth day of June of the following year. (1961, c. 795, s. 6; 1973, c. 822, s. 4; 1981, c. 919, s. 32; 1983, c. 333, s. 3; 1987, c. 396, ss. 1-3; 2012-203, s. 4; 2015-207, s. 5(c); 2017-138, s. 7(a).)

§ 162A-70. Bonds and notes authorized.

A metropolitan sewerage district shall have power from time to time to issue bonds and notes under the Local Government Finance Act. (1961, c. 795, s. 7; 1971, c. 780, s. 30; 1973, c. 822, s. 4.)

§ 162A-71. Determination of tax rate by district board; levy and collection of tax; remittance and deposit of funds.

After each assessment for taxes following the creation of the district, the board or boards of commissioners shall file with the district board the valuation of assessable property within the district. The district board shall then determine the amount of funds to be raised by taxation for the ensuing year in excess of available funds to provide for the payment of interest on and the principal of all outstanding general obligation bonds as the same shall become due and payable, to pay the cost of maintaining, repairing and operating any sewerage system or systems, and to pay all obligations incurred by the district in the performance of its lawful undertakings and functions.

The district board shall determine the number of cents per one hundred dollars (\$100.00) necessary to raise said amount and certify such rate to the board or boards of commissioners. The board or boards of commissioners shall include the number of cents per one hundred dollars (\$100.00) certified by the district board in its next annual levy against all taxable property within the district, which tax shall be collected as other county taxes are collected, and every month the amount of tax so collected shall be remitted to the district board and deposited by the district board in a separate account in a bank in the State of North Carolina. Such levy may include an amount for reimbursing the county for the additional cost to the county of levying and collecting such taxes, pursuant to such formula as may be agreed upon by the district board and the board or boards of commissioners, to be deducted from the collections and stated with each remittance to the district board. The officer or officers having charge or custody of the funds of the district shall require said bank to furnish security for protection of such deposits as provided in G.S. 159-28 and, after June 30, 1973, G.S. 159-31. (1961, c. 795, s. 15; 1973, c. 512, s. 4; c. 822, s. 4.)

§ 162A-72. Rates and charges for services.

(a) The district board may fix, and may revise from time to time, rents, rates, fees and other charges for the use of and for the services furnished or to be furnished by any sewerage system. Such rents, rates, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission, or other agency of the State or of any political subdivision. Any such rents, rates, fees and charges pledged to the payment of revenue bonds of the district shall be fixed and revised so that the revenues of the sewerage system, together with any other available funds, shall be sufficient at all times to pay the cost of maintaining, repairing and operating the sewerage system the revenues of which are pledged to the payment of such revenue bonds, including reserves for such purposes, and to pay the interest on and the principal of such revenue bonds as the same shall become due and payable and to provide reserves therefor. If any such rents, rates, fees and charges are pledged to the payment of any general obligation bonds issued under this Article, such rents, rates, fees and charges shall be fixed and revised so as to comply with the requirements of such pledge. The district board may provide methods for collection of such rents, rates, fees and charges and measures for enforcement of collection thereof, including penalties and the denial or discontinuance of service.

(b) The district board may require system development fees only in accordance with Article 8 of this Chapter. (1961, c. 795, s. 19; 1973, c. 822, s. 4; 2017-138, s. 7(b).)

§ 162A-73. Authority of governing bodies of political subdivisions.

The governing body of any political subdivision is hereby authorized and empowered:

- (1) Subject to the approval of the Local Government Commission, to transfer jurisdiction over, and to lease, lend, sell, grant or convey to a district, upon such terms and conditions as the governing body of such political subdivision may agree upon with the district board, the whole or any part of any existing sewerage system or systems or such real or personal property as may be necessary or useful in connection with the acquisition, construction, reconstruction, improvement, extension, enlargement, equipment, repair, maintenance or operation of any sewerage system by the district, including public roads and other property already devoted to public use;
- (2) To make and enter into contracts or agreements with a district, upon such terms and conditions and for such periods as such governing body and the district board may determine:
 - a. For the collection, treatment or disposal of sewage;
 - b. For the collecting by such political subdivision or by the district of rents, rates, fees or charges for the services and facilities provided to or for such political subdivision or its inhabitants by any sewerage system, and for the enforcement of collection of such rents, rates, fees and charges; and
 - c. For the imposition of penalties, including the shutting off of the supply of water furnished by any water system owned or operated by such political subdivision, in the event that the owner, tenant or occupant of any premises utilizing such water shall fail to pay any such rents, rates, fees or charges;
- (3) To fix, and revise from time to time, rents, rates, fees and other charges for the services furnished or to be furnished by a sewerage system under any contract between the district and such political subdivision, and to pledge all or any part of the proceeds of such rents, rates, fees and charges to the payment of any obligation of such political subdivision to the district under such contract;
- (4) To pay any obligation of such political subdivision to the district under such contract from any available funds of the political subdivision and to levy and collect a tax ad valorem for the making of any such payment; and
- (5) In its discretion or if required by law, to submit to its qualified electors under the election laws applicable to such political subdivision any contract or agreement which such governing body is authorized to make and enter into with the district under the provisions of this Article.

Any such election upon a contract or agreement may, at the discretion of the governing body, be called and held under the election laws applicable to the issuance of bonds by such political subdivision. (1961, c. 795, s. 23; 1973, c. 822, s. 4.)

§ 162A-74. Rights-of-way and easements in streets and highways.

A right-of-way or easement in, along, or across any State highway system, road, or street, and along or across any city or town street within a district is hereby granted to a district in case such right-of-way is found by the district board to be necessary or convenient for carrying out any of the work of the district. Any work done in, along, or across any State highway system, road, street, or property shall be done in accordance with the rules and regulations and any reasonable requirements of the Department of Transportation, and any work done in, along, or across any municipal street or property shall be done in accordance with any reasonable requirements of the municipal governing body. (1961, c. 795, s. 24; 1973, c. 507, s. 5; c. 822, s. 4; 1977, c. 464, s. 34.)

§ 162A-75. Submission of preliminary plans to planning groups; cooperation with planning agencies.

Prior to the time final plans are made for the location and construction of any sewerage system, the district board shall present preliminary plans for such improvement to the county, municipal or regional planning board for their consideration, if such facility is to be located within the planning jurisdiction of any such county, municipal or regional planning group. The district board shall make every effort to cooperate with the planning agency, if any, in the location and construction of a proposed facility authorized under this Article. Any district board created under the authority of this Article is hereby directed, wherever possible, to coordinate its plans for the construction of sewerage system improvements with the overall plans for the development of the planning area, if such district is located wholly or in part within a county, municipal or regional planning area; provided, however, that the approval of any such county, municipal or regional planning board as to any such plan of the district shall not be required. (1961, c. 795, s. 25; 1973, c. 822, s. 4.)

§ 162A-76. Water system acting as billing and collecting agent for district; furnishing meter readings.

The owner or operator, including any political subdivision, of a water system supplying water to the owners, lessees or tenants of real property which is or will be served by any sewerage system owned or operated by a district is authorized to act as the billing and collecting agent of the district for any rents, rates, fees or charges imposed by the district for the services and facilities provided by such sewerage system, and such district is authorized to arrange with such owner or operator to act as the billing and collecting agent of the district for such purpose. Any such owner or operator shall, if requested by a district, furnish to the district copies of such regular periodic meter reading and water consumption records and other pertinent data as the district may require to do its own billing and collecting. The district shall pay to such owner or operator the reasonable additional expenses incurred by such owner or operator in rendering such services to the district. (1961, c. 795, s. 26; 1973, c. 822, s. 4.)

§ 162A-77. District may assume sewerage system indebtedness of political subdivision; approval of voters; actions founded upon invalidity of election; tax to pay assumed indebtedness.

A district may assume all outstanding indebtedness of any political subdivision in the district lawfully incurred for paying all or any part of the cost of a sewerage system, subject to approval thereof by a majority of the qualified voters of the district voting at an election thereon. Any such

election shall be called and held in accordance with the provisions of the Local Government Finance Act, insofar as the same may be made applicable, and the returns of such election shall be canvassed and a statement of the result thereof prepared, recorded and published as provided in the Local Government Finance Act. No right of action or defense founded upon the invalidity of the election shall be asserted nor shall the validity of the election be open to question in any court upon any ground whatever, except in an action or proceeding commenced within 30 days after the publication of such statement of result. In the event that any such indebtedness of a political subdivision is assumed by the district, there shall be annually levied and collected a tax ad valorem upon all the taxable property in the district sufficient to pay such assumed indebtedness and the interest thereon as the same become due and payable; provided, however, that such tax may be reduced by the amount of other moneys actually available for such purpose. Such tax shall be determined, levied and collected in the manner provided by G.S. 162A-71 and subject to the provisions of said section.

Nothing herein shall prevent any political subdivision from levying taxes to provide for the payment of its debt service requirements as to indebtedness incurred for paying all or any part of the cost of a sewerage system if such debt service requirements shall not have been otherwise provided for. (1961, c. 795, s. 27; 1973, c. 512, s. 5; c. 822, s. 4.)

§ 162A-77.1. Special election upon the question of the merger of metropolitan sewerage districts into cities or towns.

Any district lying entirely within the corporate limits of a city or town may be merged into such city or town in accordance with the provisions of this section.

The governing body of a city or town, with the approval of the district board, shall call and conduct a special election within such city or town on the question of the merger of the district into the city or town. A vote in favor of such merger shall constitute a vote for such city or town to assume the obligations of the district. Such special election may be called and conducted by the governing body of a city or town upon its own motion after passage of a resolution of the district board requesting or approving the special election. Any special election shall be conducted in accordance with G.S. 163A-1592.

A new registration of voters shall not be required for the special election. The special election shall be conducted in accordance with the provisions of law applicable to regular elections in the city or town.

If a majority of the votes are in favor of the merger, then:

- (1) All property, real and personal and mixed, including accounts receivable, belonging to such district shall vest in, belong to, and be the property of, such city or town. All district boards are hereby authorized to take such actions and to execute such documents as will carry into effect the provisions and the intent of this section.
- (2) All judgments, liens, rights of liens, and causes of action of any nature in favor of such district shall vest in and remain and inure to the benefit of such city or town.
- (3) All taxes, assessments, sewer charges, and any other debts, charges or fees, owing to such district shall be owed to and collected by such city or town.

- (4) All actions, suits and proceedings pending against, or having been instituted by, such district shall not be abated by this section or by the merger herein provided for, but all such actions, suits, and proceedings shall be continued and completed in the same manner as if merger had not occurred, and such city or town shall be a party to all such actions, suits, and proceedings in the place and stead of the district and shall pay or cause to be paid any judgments rendered against the district in any such actions, suits, or proceedings. No new process need be served in any such action, suit, or proceeding.
- (5) All obligations of the district, including outstanding indebtedness, shall be assumed by such city or town, and all such obligations and outstanding indebtedness shall constitute obligations and indebtedness of such city or town, and the full faith and credit of such city or town shall be deemed to be pledged for the punctual payment of the principal of and the interest on any general obligation bonds or bond anticipation notes of such district, and all the taxable property within such city or town, as well as that formerly located within the district, shall be and remain subject to taxation for such payment.
- (6) All ordinances, rules, regulations, and policies of such district shall continue in full force and effect until repealed or amended by the governing body of such city or town.
- (7) Such district shall be abolished, and shall no longer be constituted a public body or a body politic and corporate, except for the purposes of carrying into effect the provisions and the intent of this section.

If a majority of the votes are against the merger, then such merger shall not be effective unless approved by a majority of the qualified voters who vote thereon in a subsequent special election conducted under authority of this section.

Any action or proceeding in any court to set aside a special election held under authority of this section or the result thereof, or to obtain any other relief upon the ground that such election or any proceeding or action taken with respect to the holding of such election is invalid, must be commenced within 30 days after the day of such special election. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of the election or the result thereof shall be asserted, nor shall the validity of the election or of the result thereof be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such period. (1975, c. 448; 2013-381, s. 10.31; 2017-6, s. 3.)

§ 162A-78. Advances by political subdivisions for preliminary expenses of districts.

Any political subdivision is hereby authorized to make advances, from any moneys that may be available for such purpose, in connection with the creation of such district and to provide for the preliminary expenses of such district. Any such advances may be repaid to such political subdivision from the proceeds of bonds issued by such district or from other available funds of the district. (1961, c. 795, s. 28; 1973, c. 822, s. 4.)

§ 162A-79. Article regarded as supplemental.

This Article shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of bonds under the provisions of this Article need not comply with the requirements of any other law applicable to the issuance of bonds except as herein provided. (1961, c. 795, s. 29; 1973, c. 822, s. 4.)

§ 162A-80. Inconsistent laws declared inapplicable.

All general, special or local laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable, unless otherwise specified, to the provisions of this Article. (1961, c. 795, s. 30; 1973, c. 822, s. 4.)

§ 162A-81. Adoption and enforcement of ordinances.

(a) A district shall have the same power as a city under G.S. 160A-175 to assess civil fines and penalties for violation of its ordinances, and may secure injunctions to further insure compliance with its ordinances as provided by this section.

(b) An ordinance may provide that its violation shall subject the offender to a civil penalty of not more than one thousand dollars (\$1,000) to be recovered by the district in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance. Any person assessed a civil penalty by the district shall be notified of the assessment by registered or certified mail, and the notice shall specify the reasons for the assessment. If the person assessed fails to pay the amount of the assessment to the district within 30 days after receipt of notice, or such longer period, not to exceed 180 days, as the district may specify, the district may institute a civil action in the General Court of Justice of the county in which the violation occurred or, in the discretion of the district, in the General Court of Justice of the county in which the person assessed has his or its principal place of business, to recover the amount of the assessment. The validity of the district's action may be appealed directly to General Court of Justice in the county in which the violation occurred, or may be raised at any time in the action to recover the assessment. Neither failure to contest the district's action directly nor failure to raise the issue of validity in the action to recover an assessment precludes the other.

(c) An ordinance may provide that it may be enforced by an appropriate equitable remedy issuing from court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the district for equitable relief that there is an adequate remedy at law.

(d) Subject to the express terms of an ordinance, a district ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section.

(e) An ordinance may provide, when appropriate, that each day's continuing violation shall be a separate and distinct offense. (1983, c. 333, s. 4.)

§§ 162A-82 through 162A-85. Reserved for future codification purposes.